

Message Text

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PAGE 01 PORT A 02724 311356Z

43

ACTION SCSE-00

INFO OCT-01 ARA-10 ISO-00 SCA-01 L-03 JUSE-00 CIAE-00

INR-07 NSAE-00 SP-02 PA-02 PRS-01 USIA-15 /042 W

----- 080658

R 301641Z OCT 75

FM AMEMBASSY PORT AU PRINCE

TO SECSTATE WASHDC 933

UNCLAS PORT AU PRINCE 2724

EO 11652 N/A

TAGS: CPRS, EINV, ECON, HA

SUBJECT: CLARIFICATION OF PROVISIONS IN LAW LIMITING FOREIGN
OWNERSHIP OF LAND

REF: PORT AU PRINCE 1557, 1524, 1450; A-118

AUTHOR OF NEW HAITIAN LAND LAW, SECRETARY OF JUSTICE JEANTY
DISCUSSED WITH EMBASSY ECONOFF CERTAIN PROVISIONS OF LAW REGULATING
OWNERSHIP OF LAND BY FOREIGNERS. FOLLOWING POINTS WERE DISCUSSED:

1. THE DEPARTMENT OF JUSTICE DOES NOT CONSIDER IT NECESSARY TO ISSUE
REGULATIONS IMPLEMENTING THE LAW. OCCASIONALLY CIRCULARS CLARIFYING
LEGAL POINTS MAY BE SENT TO JUDGES AND ATTORNEYS. SUCH CIRCULARS
ARE NOT GIVEN GENERAL DISTRIBUTION.

2. JEANTY CONFIRMED THAT A FOREIGNER MUST HAVE RESIDED IN HAITI
FOR A YEAR AND BE IN POSSESSION OF A VALID PERMIS DE SEJOUR BEFORE
HE MAY PURCHASE LAND FOR A HOME. BRIEF TRIPS ABROAD ON BUSINESS
OR FAMILY MATTERS WILL NOT BE CONSIDERED AS BREAKING THE YEAR'S
RESIDENCE. A YEAR'S RESIDENCE IS NOT REQUIRED BEFORE LAND IS
PURCHASED FOR COMMERCIAL, INDUSTRIAL, AGRICULTURAL OR EDUCATIONAL
PURPOSES.

3. JEANTY CONFIRMED THAT IN ACCORDANCE WITH ARTICLE 7 OF THE
LAW A JOINT STOCK COMPANY, EVEN IF NINETY-NINE PERCENT OF THE
SHARES ARE OWNED BY FOREIGNERS, IS CONSIDERED A HAITIAN COMPANY
AND THUS NOT SUBJECT TO LAND LAW LIMITATIONS. HOWEVER, THE
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COMPANY MUST BE INCORPORATED IN HAITI IN ACCORDANCE WITH HAITIAN

LAW, HAVE ITS HEAD OFFICE IN HAITI, AND HAVE AT LEAST ONE HAITIAN ON THE BOARD OF DIRECTORS. ON OTHER HAND, PROPRIETORSHIPS, PARTNERSHIPS, ETC. ARE CONSIDERED HAITIAN FOR THE PURPOSES OF THE LAW ONLY IF THEY ARE ATDEAST FIFTY PERCENT HAITIAN-OWNED.

4. JEANTY CONFIRMED THAT HOSPITALS, SCHOOLS, CLINICS, ETC. CAN BE OWNED BY MISSIONARY GROUPS AND WOULD BE CONSIDERED OWNED FOR EITHER COMMERCIAL OR TEACHING PURPOSES IN FILLING CONSTITUTIONAL REQUIREMENTS FOR LAND OWNERSHIP. HE DID NOT THAT IF THE HEAD-QUARTERS OF A MISSIONARY GROUP WAS LOCATED OUTSIDE OF HAITI, THE STATUTES OF THE GROUP MUST BE APPROVED BY PRESIDENTIAL DECREE (ARTICLE 30).

5. JEANTY NOTED THAT THE LAW WAS NOT RETROACTIVE. IN OTHER WORDS, INDIVIDUALS WHO OWN LARGER QUANTITIES OF LAND THAN THE NEW LAW PERMITS WILL BE ALLOWED TO RETAIN OWNERSHIP. HOWEVER, INDIVIDUALS WHO HAVE PURCHASED LAND ILLEGALLY, I.E., CONTRARY TO THE PROVISIONS OF THE CONSTITUTION, WILL HAVE SIX MONTHS TO "REGULARIZE" THE SITUATION (ARTICLE 32). IN OTHER WORDS, FOREIGNERS NOT RESIDENT IN HAITI WHO HAVE PURCHASED LAND FOR SPECULATIVE PURPOSES OR HOUSES AS RENTAL PROPERTY MUST SELL THE PROPERTY WITHIN SIX MONTHS OR USE IF FOR ONE OF THE PURPOSES SPECIFIED BY THE CONSTITUTION (COMMERCIAL, AGRICULTURAL, INDUSTRIAL, OR RESIDENTIAL). IT IS DOUBTFUL THAT ADDITIONAL TIME WILL BE ALLOWED THESE INDIVIDUALS SINCE THEIR OWNERSHIP OF HAITIAN LAND HAS ALWAYS BEEN ILLEGAL.

6. JEANTY SAID THAT HE UNDERSTOOD THAT FOREIGN BANKS HAD COMPLAINED THAT ARTICLE 10 OF THE LAW WOULD HANDICAP THEIR LENDING OPERATIONS. HE EXPRESSED WILLINGNESS TO MEET WITH THE BANKERS AND THEIR LAWYERS TO DISCUSS THE DIFFICULTIES AND TO DETERMINE IF A SOLUTION COULD BE FOUND.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW, LAND OWNERS, ALIENS, FOREIGN INVESTMENT CONTROLS
Control Number: n/a
Copy: SINGLE
Draft Date: 30 OCT 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975PORTA02724
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750378-0860
From: PORT AU PRINCE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t1975105/aaaaaeke.tel
Line Count: 94
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION SCSE
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 75 PORT AU PRINCE 1557
Review Action: RELEASED, APPROVED
Review Authority: buchant0
Review Comment: n/a
Review Content Flags:
Review Date: 24 OCT 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <24 OCT 2003 by MaustMC>; APPROVED <04 FEB 2004 by buchant0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CLARIFICATION OF PROVISIONS IN LAW LIMITING FOREIGN OWNERSHIP OF LAND
TAGS: CPRS, EINV, ECON, HA
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006